

RULING TO BE MADE IN ANDREWS CASE

Judge to Decide Today
on Dismissal Plea

Jefferson District Judge Frank J. Shaw will rule at 10:30 a. m. Sunday whether to throw out any or all of five perjury counts against Dean A. Andrews Jr. after a defense motion Saturday claiming state failure to prove the elements of crime.

The attorney for Andrews, who is charged with trying to the Orleans Parish Grand Jury in connection with its investigation into the alleged conspiracy to kill President John F. Kennedy in 1963, moved about 4 p. m. Saturday for a directed verdict of not guilty.

After the jury was dismissed, Harry A. Burglass, Andrews' attorney, sought the judge's ruling after charging that District Attorney Jim Garrison's office has not proved the elements of "corpus delicti" and "materiality" in the five counts.

Through two hours the defense harped on its points, maintaining throughout that the state "has no case" and that it is "basic law that a defendant cannot condemn himself with his own mouth with nothing else in the record to do so."

DEFENSE ARGUES

Burglass said the only matters before the court are Andrews' own "declarations" to the testimony of witnesses who "say what he said." The defense maintained absence of a *corpus delicti*, which is defined in law as the substantial and fundamental fact or facts necessary to the commission of a crime.

Calling to Andrews' long and colorful manner of speaking, Burglass said, "he made inconsistent statements, but there is no consistency in his inconsistent statements."

Prosecuting attorney James L. Alcock cited various instances in which he said Andrews first said he "can't say,"

Cont. in Sec. I, Page 2, Col. 1

Continued from Page 1

whether Clay L. Shaw and a Clay Bertrand were the same person, then that Clay Bertrand does "not exist at all" and finally that Bertrand is Eugene Davis.

Shaw is under indictment by the Grand Jury for allegedly being a participant in a plot here in 1960 to assassinate Kennedy. The retired New Orleans businessman denied using the alias of Bertrand, as Garrison said he did, or making anything to do with a plot.

Andrews told the Warren Commission, which named Lee Harvey Oswald as a lone assassin of the President, that Bertrand was Eugene Davis. "I may have said a thousand things, but the one line, say Clay Shaw and Clay Bertrand, clears me of all the

"It doesn't make any difference to itself I am convicted." "Clay Shaw is not Clay Bertrand. I think one is you and

ASKED OF DAVIS

At one point in the testimony, Andrews was asked by a district attorney's aide, "When you testified before the grand jury in March 16, you knew Bertrand was Eugene Davis?" Andrews' reply was read as, "Murder is coming to Dallas to So I lied. I committed perjury. I don't know what I said. The man is Eugene Davis."

DAVIS IS A FRENCH QUARTER OPERATOR whom Andrews subsequently identified as Bertrand, but Davis has denied using the name.

The defense, in seeking the directed acquittal verdict, said the state failed on the *corpus delicti* issue in that it has not proved that Shaw and Bertrand are identical.

Alcock charged that Andrews "lusted upon the world" the name Bertrand and it is "obvious that this man won't tell the world the truth on this matter."

Andrews has been quoted as saying he delayed in identifying Davis as Bertrand because he wanted to protect Davis, whom he described as "vulnerable."

The prosecution charged that various testimony of Andrews describing Bertrand does not fit the physical and social qualities of Davis, and therefore Andrews was lying if, in fact, Davis is Bertrand.

The theory of the state's move to seek a perjury conviction on this count is that if it is accepted as true that Davis is Bertrand, then the state is apparently contradicting its position that Shaw is Bertrand.

For this reason, Burglass commented, "If the state says Davis is Bertrand, then I don't think they want to be saying that."

Earlier Friday, Andrews' testimony in his second appearance before the Grand Jury June 28 was read to the other jury by Mrs. Maureen

NEWSMAN CALLED

After the 20 pages of Andrews' grand jury testimony were put into the record, the state called Robert Scott, a newsmen for radio station WROX, Boston. Scott played a tape recording of a 15-minute telephone interview he conducted with Andrews last February. A voice identified as being that of Andrews said, "People seem to think I know more than I know. . . . If the action starts up, I'm going West."

The voice said that Oswald was "just a patsy" in the Dallas

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assassination of Kennedy. "He didn't say nothing but a doozy. Everybody knows that! All you have to do is half-intelligent to know that."

The voice also declared that the problem with the Warren Commission investigating Kennedy's death was that it did not probe deeply enough into certain aspects of the case. All the commission had to do was "put the pieces together," the voice claimed.

After the recording, Judge Stuck called a half-hour luncheon recess.

When court reconvened, Alcock called several television newsmen to the stand to certify their presence while certain statements were being made by Andrews on film.

A filmed tape of an interview conducted on the steps of the Criminal Court Building June 28 was then shown. In it, Andrews (identified Clay Bertrand as Eugene Davis. Asked in the film why it took him so long to reveal who Bertrand really is, Andrews replied, "How would you like to get busted, have your brain knocked out?"

Andrew J. Sciambra, an as-

sistant state's attorney, was seated in the stand for questioning during an interrogation of Andrews in the district attorney's office March 2. Asked if Andrews, friend

Sciambra said a tape recording was made of the interview. His testimony was interrupted when defense counsel said it needed more time to study the transcript of the interview. The judge granted the request, and Sciambra was taken off the stand while other witnesses were called.

Prattie Davis, a retired Army sergeant who worked for Andrews as an investigator, then testified about an incident which occurred Nov. 24, 1963, two days after the President was killed and the day Oswald was shot in Dallas by Jack Ruby.

"I drove to the hospital helping Ruby's testimony. It was 1963 to see Andrews (where he determined that the name Clay was confined) and got there just Bertrand did come up, after the television showed O'Donnell being shot. He (Andrews) said we had just lost a client. He said he had got a call from Dallas to represent Oswald," Davis stated.

Asked if Andrews said the call probe.

replied, "Yes."

REMARK VOLUNTEERED

Davis then volunteered the information that Andrews frequently used the name Bertrand to mask the identity of whom ever he might be referring to. The judge bid the jury to disregard the remark.

The prosecution then called back to the stand two state policemen, who testified earlier about a night club encounter with Andrews April 12.

Sgt. John J. Buckley said that during the course of the conversation with Andrews the attorney said he would rather take \$10 than be known as a "rat." He explained that Andrews meant spending five years in prison rather than be known as a " stoolie."

Though the extent of the conversation was not revealed during Andrews' testimony, it was learned that he had just been fired and got a call from Dallas to represent Oswald.

The second policeman, Lt. Thomas B. Caso, confirmed Buckley's earlier testimony. Caso noted that he was assigned to Garrison's office in 1963, in the assassination